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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 19

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No. 18

MAJOR ISSUES FROM THE 2002 LEGISLATIVE SESSION

These summaries highlight some of the major bills considered by the General Assembly this year. Please note that many issues which are included in this document are addressed in more than one bill. We have highlighted bills which have made the most progress towards passage.

This document will be revised and expanded. Major legislation is summarized here in a format that is intended to be more accessible than a simple reading of the bills, joint resolutions, and acts. This report, which highlights legislative activity through *Friday, May 3, 2002*, is a guide to, not a substitute for, the full text of the legislation summarized.

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APPROPRIATIONS

THE 2002-03 GENERAL APPROPRIATION BILL (H.4878)

The House and the Senate have approved differing plans to address the difficult 2002-2003 fiscal year. Major differences between the two plans include, but are not limited to: differences in revenue sources; differences in funding for Medicaid; differences in funding for the State Department of Education (including differing recommendations for funding the First Steps program); differences in funding the rate increase in employee health insurance; and differences in plans for distributing lottery funds. Highlights from **the House-passed plan** include:

- NON-RECURRING REVENUE is generated from various sources, including but not limited to:
 - Redirecting interest from various state agency restricted accounts, generating approximately \$50.3 million;
 - Establishment of a tax amnesty program, which it is estimated will generate around \$5 million;
 - Reducing the state's contribution to the employee retirement plan, and transferring various other agency funds to the General Fund, generating a total of approximately \$73 million; over \$29 million of these funds will be used to cover increases in state employee health insurance costs;
 - Transferring \$100 million from the unrestricted taxable proceeds portion of the principal of the Healthcare Tobacco Settlement Trust Fund; Out of these funds, the Silvercard prescription drug program is to be funded at \$23.2 million, \$4 million goes to the Department of Mental Health, and \$71.5 million is to be expended for Medicaid match and to reimburse nursing homes for franchise fees and provide up to \$7.5 million needed to continue the nursing home rate increases made possible by the franchise fees. *In addition, this year's joint resolution imposing an annual franchise fee on nursing homes is repealed.*
- LOTTERY - The House approved provisions authorizing participation in *multi-state lottery games*. The House specified that the \$216.2 million in lottery revenue must be considered non-recurring funds, to be expended as follows (figures are rounded):

○ Education Accountability Act Increase	\$23.9 million
○ K-5 Reading, Math, Science, and Social Studies Program	36.5 million
○ School Buses	35.0 million
○ ETV Digitalization	18.5 million
○ Aid to public libraries	1.5 million
○ LIFE Scholarship Increase (Includes technical college students)	42.1 million

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Appropriation Bill for fiscal year 2002-2003, when the bill is under consideration in the House.

STATUS: Approved by the House.

TRANSFER OF MONIES FROM EXTENDED CARE MAINTENANCE FUND (H.5003)

The House approved and sent to the Senate H.5003. This joint resolution directs the State Treasurer to transfer the sum of sixty-one million dollars from the Extended Care Maintenance Fund (funds set aside for long-term maintenance of the Barnwell low-level nuclear waste disposal facility) to the State general fund to offset fiscal year 2001-2002 mid-year sequestrations as imposed by the State Budget and Control Board. The resolution further provides that if the Extended Care Maintenance Fund is insufficient to meet its obligations due to this transfer, the State is solely responsible for repaying an amount to restore the transferred funds.

STATUS: H.5003 was approved by the House and is pending in the Senate Finance Committee.

STATE CAPITAL IMPROVEMENT BONDS (H.3765)

The House approved and sent to the Senate H.3765. This legislation requires that a bill authorizing the issuance of state capital improvement bonds must have a certificate attached from the Office of State Budget, certifying that certain conditions are met regarding the dollar amount of bond authorizations in the bill and regarding the debt service for the bonds. The bill requires this certificate before any bill or joint resolution authorizing the issuance of state general obligation bonds may be reported by the House Ways and Means Committee, given third reading in the House, reported by the Senate Finance Committee, given third reading in the Senate, and reported from conference or free conference committee.

STATUS: H.3765 was approved by the House and is pending consideration in the Senate Finance Committee.

DISTRIBUTION OF LOTTERY REVENUE (H.3307)

(See summary under "Lottery" section of this document. Also, see lottery distribution plan under the 2002-2003 Appropriation Bill summary)

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the Director of the Department of Labor, Licensing and Regulation is authorized to hold hearings and enter a workplace in order to evaluate compliance. The Director is authorized to assess a violator a civil penalty of not more than one hundred dollars for each offense. The bill makes several amendments to penalty provisions and broadens the scope of persons prohibited from participating in unlawful labor agreements that violate an employee's right to work by allowing for penalties and/or causes of action against any person for violations. Current law allows for such actions to be taken against employers, only. The legislation also creates a private cause of action under which a person who may be caused to be denied or denied employment or be deprived of continuation of employment through force, intimidation, obstruction, interference, or threat of these in violation of right to work provisions is entitled to recover from the employer and from any other person, firm, corporation, or association by appropriate action in the courts of this State such damages as the person may have sustained including, in the discretion of the court or jury, punitive damages in addition to the actual damages.

The Senate version of the legislation differs insofar as it: (1) requires that a complaint be filed prior to the Director entering a place of employment to evaluate compliance and prior to obtaining a warrant; (2) adds an appeal process; (3) clarifies that after one year, employee has absolute right to revoke written assignment for deduction of membership dues in a labor union; (4) eliminates Section 5 which clarified the private right of action for right to work claims.

STATUS: A Conference Committee has been appointed to address House and Senate differences on H.3142.

CAMPAIGN FINANCE REFORM

The House passed H.3144 and sent the bill to the Senate where it has been referred to the Judiciary Committee. The legislation provides for various campaign finance revisions, most notably:

- 1) Requires political parties, legislative caucus committees, and party committees to disclose anything of value that it receives after it reaches a \$500 threshold to include all funds received for operating expenses, "party-building" expenses, etc. Currently, parties are not required to report these funds, commonly known as "soft money".
- 2) Further defines the term "influence the outcome of an elective office" for purposes of clarifying who has to file disclosure reports. Currently, the State Ethics Act does not clearly set out who or what entities are required to file disclosure reports.
- 3) Requires individuals, groups of persons, corporations and other entities who make independent expenditures of \$500 or more during an election cycle for the purpose of influencing the outcome of an elective office to file disclosure reports.

CHILD ABUSE AND NEGLECT REPORTS, STEPHANIE'S LAW (S.1208)

The Senate passed S.1208, Stephanie's Law, and sent the bill to the House where it has been referred to the Judiciary Committee. This bill establishes more rigorous reporting and record keeping guidelines for child abuse and neglect cases in South Carolina. This bill provides that when the Department of Social Services receives a report of suspected child abuse or neglect, DSS must determine whether previous reports have been made regarding the same child or the same subject of the report. The bill further provides that if DSS does not conduct an investigation as a result of information received, DSS must make a record of the report and allow that information to be used by it and law enforcement for purposes of assessing risk and safety if additional contacts are made concerning the child, the family, or the subject of the report.

This bill also requires that DSS retain records of all reports and place each report in a specified category (suspected, indicated, or unfounded) based on the department investigation. The bill provides that reports that are classified as unfounded must be retained by DSS for up to five years. Once these records are classified, the bill limits access to them and specifically removes them from Freedom of Information Act inquiry. The bill also ends the practice of purging certain records from the central registry, allowing Department access to all reports at all times.

Finally, the bill precludes the registry from containing any report that the Department classifies as unfounded.

STATUS: S.1208 passed the Senate on April 18, 2002, and was sent to the House where it has been referred to the Judiciary Committee.

DOMESTIC VIOLENCE PREVENTION ACT (H.3056)

The House approved H.3056, the Domestic Violence Prevention Act, and sent the bill to the Senate where it has been referred to the Judiciary Committee. The legislation provides for various penalty enhancements and revisions for domestic violence offenses.

The legislation provides for a penalty for a second offense violation of Criminal Domestic Violence and Criminal Domestic Violence of a high and aggravated nature, if committed within the previous ten years. The second offense violation would be a misdemeanor and subject the offender to a penalty, upon conviction, of imprisonment for not more than 30 days and a fine of not more than five hundred dollars. The court may suspend all or part of the sentence if the offender completes a program designed to treat batterers.

The legislation revises the statutory list of aggravating circumstances which are used to determine whether to impose a sentence of either death or life

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A person may not be considered for pre-trial intervention if he is charged with a criminal domestic violence offense if the offender has been previously convicted of a criminal domestic violence violation or a similar offense in another jurisdiction.

The Committee amended the definition of "household member" under criminal domestic violence and protection from domestic abuse provisions so as to eliminate from the definition persons related by consanguinity or affinity within the second degree.

The bill provides that following a first offense conviction as a youthful offender the defendant may apply to have his record expunged after 15 years.

The bill also includes the provisions of H.4989 which provides for procedures for South Carolina Court Administration to receive notice of a solicitor's intent to seek the death penalty and procedures for maintaining records and statistics regarding death penalty cases.

STATUS: H.3056 passed the House on May 2, 2002, and was sent to the Senate where it has been referred to the Judiciary Committee.

CONSERVATION/ HISTORIC PRESERVATION

Conservation Bank Act (S.297)

The General Assembly passed S.297, the South Carolina Conservation Bank Act, and the bill into law on April 10. The legislation establishes the South Carolina Conservation Bank as an ongoing funding source governed by a twelve-member board and created to acquire interests in real property from willing sellers in order to protect wildlife habitats, forestlands, farmlands, open space, parks, historical sites, and healthy streams, rivers, bays, and estuaries. Areas are to be conserved for recreational purposes, scientific study, aesthetic appreciation, the protection of critical water resources, the maintenance of the State's position as an attractive location for visitors and new industry, and the preservation of the State's outstanding natural and historical sites for the benefit of future generations. The Conservation Bank is established to encourage cooperation and innovative partnerships among landowners, state agencies, local governments, and nonprofit organizations to ensure the orderly development of the State.

The bill provides for the Board's appointed and *ex officio* membership, terms of service, and meetings. The Governor is authorized to appoint three board members from the state at large. Three members are appointed by the President Pro Tempore of the Senate, one each from the first, second, and fifth congressional districts. Three members are appointed by the Speaker of the House of

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interest-bearing instruments or accounts, with the interest accruing and credited to the fund.

An eligible trust fund recipient may apply for a grant or loan from the trust fund to acquire a specific interest in land identified in its application. An application must not be submitted to the board without the written consent of the owner of the interest in land identified in the application. Contiguous landowners and other interested parties may submit in writing to the board their views in support of or in opposition to the application. The board must hold a public hearing on the application at which the eligible trust fund recipient, contiguous landowners, and other interested parties shall be heard. Interested parties include representatives of the municipality, county, and public or private utilities in the area wherein the property is located. The board shall conduct a public hearing on an application before awarding a grant or loan pursuant to the application.

Before applying for trust funds for the purchase of an interest in land, the eligible trust fund recipient receiving the funds must notify the owner of the land that is the subject of the trust fund grant or loan of the following in writing: (1) that interests in land purchased with trust funds result in a permanent conveyance of such interests in land from the landowner to the eligible trust fund recipient or its assigns; and (2) that it may be in the landowner's interest to retain independent legal counsel, appraisals, and other professional advice.

The board shall evaluate each proposal according to conservation criteria listed in the bill, financial criteria listed in the bill, and the extent to which the proposal provides public access for hunting, fishing, outdoor recreational activities and other forms of public access. The board shall award grants or loans on the basis of how well proposals meet these three criteria.

The bill specifies the information that must be supplied by applicant for a grant or loan. Under the bill, an applicant is required to demonstrate that it is able to complete the project, indicate the total number of acres and describe the lands it has preserved in the State.

The board only may authorize grants or loans to purchase interests in lands at fair market value. In no cases may funds from the trust fund be used to acquire interests in lands at a price that exceeds the fair market value of the interest being acquired. However, trust funds may be used to acquire interests in land at below fair market value, but only if the owner of the interest consents and in writing to sell at below fair market value.

The Board is required, upon awarding a grant or loan, to set forth specified findings including but not limited to findings regarding the application/applicant which are relevant to the award and how the application/applicant satisfies the provisions and intentions of the bill.

The bill provides that land interest acquired by an eligible trust fund recipient may not be extinguished, sold, transferred, assigned, alienated, or converted to a

income tax credit equal to ten percent of rehabilitation expenses incurred for a taxpayer who is eligible for the federal income tax credit allowed for the rehabilitation of historic structures. These income tax credits involve the rehabilitation of historic structures for use as places of business. For taxpayers who do not qualify for the federal income tax credit and who are rehabilitating a certified historic residential structure, the legislation provides a state income tax credit equal to twenty-five percent of rehabilitation expenses incurred.

STATUS: The General Assembly passed H.3163 and the bill was signed into law by the Governor on May 1, 2002.

THE COURTS

GUARDIANS AD LITEM (S.322)

On April 24, 2002, a Conference Committee was appointed to address differences in the House and Senate versions of S.322. The bill provides requirements and restrictions pertaining to a Guardian ad Litem appointed in a private action before the family court in which custody or visitation of a minor child is an issue. A brief description of the key issues and major differences of the Guardian ad Litem legislation in the House and Senate versions are discussed below.

Appointment of GALs

The House Version and Senate Versions are very similar for the appointment process for GALs. The House Version requires the court to appoint only when any of the two occur (1) when it determines that without a GAL the court would not be fully informed about the facts of the case *and* there is a substantial dispute or (2) when both parties consent.

The Senate version requires the court to appoint when any of three occur (1) it determines that without a GAL the court would not be fully informed about the facts of the case; *or* (2) there is a substantial dispute or (3) when both parties consent.

Training and Qualifications of GALs

There are some differences in the areas of training and qualifications of GALs in the House and Senate Version. The House Version requires that only nonattorneys receive initial and annual training in the areas of custody, visitation, and family court procedure to become and remain a GAL.

The Senate Version requires that both attorneys and nonattorneys receive initial and annual training in the areas of custody, visitation, and family court procedure. In the Senate version, an attorney is required to receive six hours of family law

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The Senate Version requires the court to set the rate of compensation at the time of appointment of the GAL, *including an initial authorization of a fee based on the facts of the case*. It provides that the GAL must not charge a fee exceeding the initial authorization at the time of appointment. The Senate Version provides that if the GAL determines it is necessary to exceed the initial authorized fee, the GAL must provide notice to the parties and obtain the judge's written authorization to increase the fee. The Senate Version requires the GAL to submit *monthly* itemized billings to the parties and their attorneys.

Both the House and Senate Versions require the court to consider the ability of the parties to pay fees and costs at the time of appointment.

Disclosure

There is one significant difference between House and Senate Versions regarding disclosure of relationships of the GAL to litigants and attorneys.

The House Version requires the GAL to provide written notice, at the time of appointment, to each party of the nature, duration, and extent of any relationship the GAL or any member of the GAL's immediate family residing in the GAL's household has *(1) with any party or, (2) with any attorney only if the GAL or his immediate family has any interest adverse to an attorney* which might cause the impartiality of the GAL to be challenged.

The Senate Version requires the GAL to provide written disclosure to each party of the nature, duration, and extent of any relationship the GAL or any member of the GAL's immediate family residing in the GAL's household has with *all parties and their attorneys* in the case. The Senate Version also requires a GAL to provide an affidavit to the court, before appointment, to include a statement affirming that the GAL does not have a relationship with *any party or any party's attorney* and if the GAL does have a relationship with any party or any party's attorney, the GAL must disclose the nature, duration, and extent of the relationship.

STATUS: On April 24, 2002, a Conference Committee was appointed to address House and Senate differences on S.322.

LEGAL NAME CHANGES (H.3906)

This bill sets out new procedures for obtaining a legal name change in the family court. The purpose of this bill is to ensure that the court is aware of the criminal history of a petitioner before a name change is granted; and that if a petition for a name change is granted and the petitioner does have a criminal background, that the proper agencies are notified of the name change. This bill does exempt from the legal name change requirements persons who are seeking to change their name as a result of the person's marriage or divorce, or when a parent is seeking a name change for a minor child.

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compile, collate, index, and maintain a file of the required information and make the file available to the general public during the normal business hours of the offices of Court Administration. The legislation provides a procedure for challenging and correcting information in the file. The lack of notice given to the court administrator will never serve as a defense for the defendant of a capital case.

STATUS: H.4989 passed the House on April 26 and was sent to the Senate where it has been referred to the Judiciary Committee. The provisions of H.4989 were also included in H.3056, the Domestic Violence Prevention Act, which passed the House on May 2, 2002, was sent to the Senate, and referred to the Judiciary Committee.

DOMESTIC VIOLENCE

(See CHILD ABUSE/ DOMESTIC VIOLENCE section of this document)

TRUTH IN SENTENCING (H.3141)

In 1996, Truth in Sentencing for those convicted of offenses with maximum penalties of 20 years or more went into effect. This legislation eliminated parole for these offenders and required them to serve at least 85% of their sentences.

Most of these offenses are classified as violent crimes. However, some crimes classified as violent do not fall under Truth in Sentencing. They include Second Degree Burglary; First Offense Trafficking in Marijuana, 10-100 lbs; First Offense Trafficking in Cocaine, 10-28 grams; First Offense Trafficking in Methaqualone, 15-150 grams; First Offense Trafficking in LSD, 100-499 dose units; First Offense Trafficking in Fluintrazepam (Date Rape Drug), 1-100 grams; and First Offense Trafficking in Ice, Crank, or Crack Cocaine. Other serious offenses that do not fall under Truth in Sentencing include Lewd Act upon a Minor, which is a Class D, 15-year Felony and Embezzlement of Public Funds over \$5,000, which is a Class E, 10-year Felony.

The House version of this bill extends Truth in Sentencing provisions to all crimes in South Carolina. All offenders would be required to serve at least 85% of their sentences and would serve 100% if they do not earn work, education, or good time credits. Parole would be abolished for all offenders who commit crimes after the effective date of the act. The Senate version of this bill would apply the provisions of Truth in Sentencing to one more class of felonies to include Class D felonies and those offenses exempt from classification with maximum penalties of fifteen years or more. The Senate version would also apply the provisions of Truth in Sentencing to the offenses of Assault and Battery of a High and Aggravated Nature, Criminal Domestic Violence of a High and Aggravated Nature, and Criminal Sexual Conduct in the third degree.

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study at an accredited college or university and a requirement for state fingerprint review.

▪ **Teacher Qualifications for Teaching Core Subjects**

The legislation provides that in either a new or converted charter school, a teacher teaching in the core academic areas of English/language arts, math, science, or social studies must be certified in those areas, or possess a baccalaureate or graduate degree in the subject he or she is hired to teach.

The legislation also provides that a charter school may hire in its discretion administrative staff to oversee daily operation of the school, and at least one of the administrative staff must be certified or experienced in the field of school administration.

▪ **Racial Composition**

The legislation includes a requirement that the racial composition of the charter school enrollment reflect that of the school district or that of the targeted student population which the charter school proposes to serve, as differing by no more than twenty percent.

▪ **Percent Preference for Charter Committee Children**

The legislation provides that children of the charter committee may be given enrollment priority so long as their enrollment does not constitute more than twenty percent of the enrollment of the charter school.

▪ **Interscholastic Participation**

The legislation adds a provision to the law that the charter contract may include participation in agreed upon interscholastic activities at a designated school within the sponsor district. The legislation further provides that students participating under this agreement shall be considered eligible to participate in league events if all other eligibility requirements are met.

▪ **Enrollment Assurance**

The legislation revises the current requirement that the charter school application must include a description of how the charter school plans to ensure that the enrollment of the school is similar to the racial composition of the school district, by providing that the charter school application must include a description of how the school plans to ensure that the enrollment is similar to the racial composition of the school district or the targeted student population the charter school proposes to serve and provide assurance that the school does not conflict with any school district desegregation plan or order in effect.

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Current law provides that a charter may be approved or renewed for a period not to exceed three school years. This legislation provides that a charter may be approved or renewed for a period of **five** school years, and provides that the charter may be revoked or not renewed pursuant to specified statutory provisions.

- **Charter School Funding**

The bill provides that during the first year of a charter school's operation for those schools established on and after July 1, 2004, and upon verification of current funding for the charter school, the school district shall receive through a state reserve fund as established by the General Assembly beginning with fiscal year 2004-2005 an amount equivalent to 100% of the state allocation for the students enrolled in the charter school that were enrolled in other public schools of that district on the 135th day of the previous school year. The bill further provides that the reserve fund shall be available only when the charter school is not initiated or operated by the district.

- **Out of District Transfers to Charter Schools**

The legislation provides that a child who resides in a school district other than the one where a charter school is located may attend a charter school outside his district of residence; however, the receiving charter school shall have authority to grant or deny permission for the student to attend according to the terms of the charter after in-district children have been given priority in enrollment. The legislation also provides that the out-of-district enrollment shall not exceed twenty percent of the total enrollment of the charter school without the approval of the sponsoring district board of trustees. The legislation also provides that the district sending children to the charter school must be notified immediately of the transferring students, and out-of-district students must be considered based on the order in which their applications are received. The legislation further provides that if the twenty percent out-of-district enrollment is from one school district, then the sending district must concur with any additional students transferring from that district to attend the charter school. The charter school to which the child is transferring shall be eligible for state and federal funding.

- **Impact Study**

The bill requires the State Board of Education to conduct an impact study two years after the implementation of the Charter School Advisory Board review process to determine the effectiveness of the application process.

- **Surplus Buildings**

The legislation includes a provision that if a school district declares a building surplus and chooses to sell or lease the building, a charter school's board of

SCHOOL START DATE

The House Education and Public Works Committee reported favorable with amendment on H.4911. As reported by the Committee, this bill creates and provides for a task force to examine both the economic and instructional aspects of standardizing the beginning date for all public schools. The task force is charged to look at the advantages or consequences of having a uniform school starting date as close to Labor Day as possible. Co-chaired by the State Board of Education and the State Commission on Higher Education, the task force is to report to the General Assembly as specified in the bill by January 15, 2003, at which time the task force will be abolished.

STATUS: H.4911 is on the House contested calendar pending second reading, with debate adjourned until May 7, 2002.

RESEARCH CENTERS OF ECONOMIC EXCELLENCE (H.4622)

The House approved and sent to the Senate the South Carolina Research Centers of Economic Excellence Act. This bill creates a nine member Research Centers of Excellence Review Board and creates the Centers of Excellence Matching Endowment. The Endowment would be funded annually by appropriations from the South Carolina Education Lottery Account and managed by the State Treasurer, subject to awards from the Endowment. South Carolina's senior research universities may apply for awards from the Endowment as provided in the bill. The Board is responsible for recommending annually to the Budget and Control Board for approval a schedule by which applications for funding are received and awarded on a competitive basis; for awarding of matching funds as provided in the bill; and for oversight and operation of the Endowment.

STATUS: H.4622 was approved by the House and is pending consideration in the Senate Judiciary Committee.

HOMELAND SECURITY

OMNIBUS COUNTER-TERRORISM AND HOMELAND DEFENSE ACT (4416)

The House approved and sent to the Senate H.4416, the South Carolina Omnibus Counter-Terrorism and Homeland Defense Act of 2002.

The legislation affords state law enforcement authorities with new means of investigating potential terrorist threats.

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of a felony and, upon conviction, must be imprisoned not more than thirty years or for life without parole.

The bill provides that it is unlawful to interfere with private or public mass transportation with the intent to cause bodily injury. A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

Death Penalty for Violation of Anti-terrorist Law

This legislation creates an aggravating circumstance for when the death penalty may be ordered to include a violation of specified laws pertaining to terrorist activities and weapons of mass destruction.

Revisions to Weapons of Mass Destruction Statutes

The bill revises current provisions pertaining to weapons of mass destruction, so as to make it unlawful for a person to cause sickness and disease by using a weapon of mass destruction or destructive device.

The bill provides that it is unlawful to threaten or attempt to threaten to cause damage, injury, sickness, disease or death or to cause damage or destruction to a building or other property by means of a destructive device.

The bill provides that it is unlawful for a person to knowingly harm or destroy a plot, land, a stream, pond, lake or body of water, a crop, plant or livestock, wildlife or fish by means of the direct or indirect use of a biological, chemical or nuclear weapon of mass destruction with the intent to cause economic or physical harm to a person or damage to property.

The bill provides that it is unlawful for a person to commit an offense using a biological attack, destructive device, weapon of mass destruction, biological or bacteriological weapon if committed incident to or to facilitate an act of terrorism or international terrorism.

The bill specifies those individuals who are exempt from certain restrictions including military and law enforcement officers engaged in lawful activity and persons engaged in lawful research, accepted agricultural, pest and weed control practices.

The bill requires notification by law enforcement of encounters of weapons of mass destruction to public health officials.

The bill provides that restitution be ordered for certain violations.

Tax Credits for Emergency Workers

The legislation provides that provides that a taxpayer employed in a member of some emergency entity (fire, police, etc.) that is assigned for more than five days by a superior officer to assist in the wake of a terrorist attack may claim a \$25 a day credit against the state income tax up to \$1,000 in a taxable year.

Active Duty State Income Tax Exclusion

The legislation provides that all compensation and benefits earned while mobilized for active duty otherwise subject to the state income tax are excluded from SC gross income of reservists and members of the National Guard if they are called to active duty for "Operation Enduring Freedom" or "Operation Noble Eagle," or both and perform such duty.

Free Admission to State Parks for Emergency Workers on September Eleventh

The legislation allows any law enforcement official, firefighter and emergency medical technician to enter a state park without charge on September 11 of each year upon showing proof of employment with a badge, certification card or other valid credentials.

South Carolina 9/11 Scholarship Program

The legislation creates the South Carolina 9/11 Scholarship Program and will provide a scholarship to any South Carolina resident whose parent or legal guardian who was also a South Carolina resident and died as a result of the terrorist attacks on September 11, 2001, in New York City, the Pentagon and Pennsylvania. This scholarship includes the cost of tuition at any state public institution of higher learning for up to 5 years of full-time undergraduate study.

State Day of Remembrance

The legislation designates September 11 of each year as a State Day of Remembrance.

Moment of Silence

The legislation revises the current mandatory moment of silence requirement by requiring all school districts to establish in every school under its jurisdiction the daily observance of one minute of silence for voluntary prayer, meditation, or other silent activity. During the one-minute period of silence, the teacher responsible for each classroom shall ensure that all pupils remain seated and silent and make no distracting display to the end that each pupil, in the exercise of his individual choice, may pray, meditate, or engage in any other silent activity which does not interfere with, distract, or impede other pupils in the like exercise of individual choice.

INSURANCE

HEALTH INSURANCE MANDATES (H.4583)

The House approved and sent to the Senate H.4583, a bill pertaining to state and federal health insurance mandates. The legislation creates the ten-member Task Force to Review State and Federal Health Insurance Mandates in South Carolina. The legislation provides for the membership, authority, and staff support of the task force. The task force is charged with reviewing: (1) each and every State and Federally mandated health benefit placed upon health insurance issuers in South Carolina since 1990; (2) the impact of each such mandated health benefit on the premiums for health insurance coverage in South Carolina. The task force shall make a final report with recommendations to the General Assembly no later than January 1, 2005, at which time the task force is dissolved. Until the task force is so dissolved, no mandated health benefit may be imposed on a health insurance issuer doing business in this State beyond those required as of January 1, 2002.

STATUS: H.4583 passed the House on March 21, 2002, and was sent to the Senate where it has been referred to the Banking and Insurance Committee.

MOTORIST INSURANCE DATABASE PROGRAM ACT (H.5105)

The House approved and sent to the Senate H.5105, the Motorist Insurance Database Program Act. The legislation creates the Motorist Insurance Database Program for the purpose of establishing a database to use when verifying compliance with the State's requirements for automobile insurance or other motor vehicle financial security. The legislation provides that the Department of Public Safety shall convene a working group with a membership as specified in the bill for the purpose of facilitating the implementation of the program, assisting in development of regulations, and coordinating a testing phase, and necessary changes identified in this testing phase, as prescribed by the working group. The Motor Vehicles Division in the Department of Public Safety shall develop, in a manner prescribed by the department, a system to allow the transmission of data from insurance companies to the division. The department, with input from the Department of Insurance, shall promulgate regulations for administering and enforcing this provision. The regulations shall specify the requirements that are necessary and appropriate for commercial lines of insurance which shall be developed with input by the Department of Insurance. The division, for a fee prescribed and promulgated by regulation, shall make available to insurers by subscription a monthly electronic list of newly-licensed drivers. This list must not be used for marketing, solicitation, or another purpose not specifically enumerated. It may only be used to provide an additional method to reduce the uninsured motorist population. This monthly list of newly-licensed drivers must show the: name and gender of the driver, address, date of birth, South Carolina driver's

As approved by the Senate, H.3307 provides that the net proceeds will be distributed as follows (figures are rounded): For Fiscal Year 2002-2003 (\$127 million is appropriated) Free Tuition for Tech Colleges and Two-Year Institutions \$48.2 million; LIFE Scholarships \$46.35 million; HOPE Scholarships \$8.7 million; Palmetto Fellows Scholarships \$7 million; Endowed Professorship Chairs \$9.5 million; Need-Based Grants \$2.1 million; School Buses \$5 million. The Senate plan also provides for distribution of \$23 million of Fiscal Year 2002-2003 lottery proceeds in excess of \$127 million. The Senate also provided for appropriation of Fiscal Year 2001-2002 lottery proceeds totalling \$67.2 million, to be distributed as follows: College and university technology grant program \$4.5 million; Endowed Professorship Chairs \$13.644 million; Historically Black colleges and universities \$3 million; Technology grant program for tech schools \$1.5 million; Education Accountability Act \$7.84 million; K-12 technology \$5 million; School-based pilot programs \$1 million; School buses \$15 million; Tuition grants \$1.2 million; State Aid for Libraries \$1.5 million; ETV Digitalization \$13 million. The Senate plan provides further for appropriation of \$32.8 million in 2001-2002 net lottery proceeds in excess of \$67.2 million. The Senate plan appropriates \$7 million in 2001-2002 and 2002-2003 unclaimed prize money for school buses.

STATUS: Differing versions of H.3307 have been approved by the House and the Senate. A conference committee has been appointed to work out those differences.

GAMBLING CRUISE PROHIBITION ACT (H.4387)

The House approved and sent to the Senate H.4387, the Gambling Cruise Prohibition Act. The legislation prohibits gambling activities on so-called "cruises to nowhere." The legislation provides that it is unlawful for a person to use any gambling device or engage in gambling aboard a vessel within the jurisdiction of this State. The legislation provides that it is unlawful for a person to use any gambling device or engage in gambling aboard a vessel that is on a voyage if: (a) the voyage begins and ends in this State; and (b) during the voyage the vessel does not make an intervening stop. The legislation provides that it is unlawful for a person to own, keep, operate, manage, or maintain any gambling device on a vessel within the jurisdiction of this State unless: (a) the vessel is engaged in a voyage that begins and ends in this State and makes an intervening stop; and (b) any gambling that occurs aboard the vessel occurs only outside the jurisdictional waters of this State. The legislation also provides that it is unlawful for a person to own, keep, operate, manage, or maintain a vessel that transports persons to another vessel for the purpose of engaging in a "cruise to nowhere" style gambling cruise. Under the bill, an 'intervening stop' occurs when a vessel departs the jurisdictional waters of this State and sails into United States or international waters, and between the time the vessel departs the jurisdictional waters of this State and the time it returns to the jurisdictional waters of this State, the vessel docks at a port of call in another state or possession of the United States or foreign country and remains in that port for a period of time sufficient to allow passengers the opportunity to disembark the vessel for sightseeing, shopping, or other

MOTOR VEHICLES

DRIVER'S LICENSE AND CHILD TRANSPORTATION REVISIONS (H.3933)

The General Assembly approved H.3933, a bill revising beginner's permits, provisional licenses, special restricted driver's licenses, and driver's training and restricting the transportation of children in the open bed or open cargo area of a pickup truck or trailer.

The bill provides revisions for the beginner's permit that may be issued to individuals at least fifteen years of age. The legislation provides that a beginner's permit is valid in the operation of vehicles between six a.m. and midnight, rather than "during the daylight hours," as is currently provided. A permittee may not drive between midnight and six o'clock a.m. unless accompanied by the permittee's licensed parent or guardian. The bill provides that a beginner's permit is valid in the operation of certain scooters and cycles between six a.m. and six p.m., except that beginning on the day that daylight savings time goes into effect through the day that daylight saving time ends, the permittee may operate these certain scooters and cycles between six a.m. and eight p.m. The bill provides that a permittee may not operate a motorcycle, motor scooter, or light motor-driven cycle at any other time unless supervised by the permittee's motorcycle licensed parent or guardian. The bill also increases from ninety days to one hundred eighty days the period which a person must hold a beginner's permit before being eligible for full licensure.

The legislation provides for revisions to the conditional (currently known as "provisional") driver's license issued to eligible individuals that are at least fifteen years of age and less than sixteen years of age and the special restricted driver's license issued to eligible individuals that are at least sixteen years of age and less than seventeen years of age. The bill provides that in addition to current requirements, a driver must complete at least forty hours of driving practice, including at least ten hours of licensed parental- or guardian-supervised driving practice during darkness, in order to be issued a conditional (currently known as "provisional") driver's license or a special restricted driver's license. The holder of conditional driver's license or a special restricted license may not transport more than two passengers who are under twenty-one years of age unless accompanied by a licensed adult who is twenty-one years of age or older. This restriction does not apply when transporting family members, or students to or from school. In addition to current requirements, the bill also provides that a person must pass a specified driver's education course in order to be issued a special restricted driver's license. The bill also provides that for purposes of issuing a special restricted driver's license, the Department of Public Safety must accept a certificate of completion for a student who attends or is attending an out-of-state high school and passed a qualified driver's training course or program equivalent to an approved course or program in this State. In addition to current requirements, the bill also specifies that a person must satisfy the school attendance requirements imposed for

MOTORIST INSURANCE DATABASE PROGRAM ACT

(See INSURANCE section of this document)

SPECIAL LICENSE PLATES

This year, the General Assembly approved various bills creating special license plates. Of special note are H.4652, which creates and provides for "In God We Trust" and "United We Stand" special plates; and H.4432, which creates and provides for "God Bless America" special plates.

H.4652 provides that the fee for the "In God We Trust" plate will be the regular motor vehicle license fee. Before the Department of Public Safety produces and distributes this plate, the bill requires that the Department receive at least four hundred prepaid applications for the plate, or a deposit from an individual or organization of four thousand dollars. This deposit is refundable once an equivalent number of license plate fees is collected for that organization's plate. The bill also requires that before production and distribution of the plate, the Department must receive and approve a plan for marketing the plate. Also, the bill provides that if the Department receives less than three hundred biennial applications and renewals for a particular special license plate, it may not produce additional special license plates in that series. The bill provides that the fee for the special "United We Stand" plate will be \$25 every two years in addition to the regular motor vehicle license fee. Funds from the fee for this plate will be distributed to the national "Rewards for Justice" fund which was created to establish rewards for the capture of terrorists. The bill also includes the same requirements for prepaid applications or deposit and for refund of deposit as are provided for the "In God We Trust" plate.

The General Assembly also approved H.4432, which creates and provides for "God Bless America" special license plates. These plates may be produced and distributed after the Department of Public Safety receives at least four hundred prepaid applications for the plate, or a deposit of four thousand dollars from the individual or organization seeking issuance of the plate. The deposit would be refundable once an equivalent amount of license plate fees is collected for that special plate, or would be retained by the Department if the equivalent amount is not collected within four years. The bill requires that the Department must approve a plan to market the plates, and if the Department receives less than three hundred biennial applications and renewals for this special plate, it shall not produce additional special license plates in that series. The fee for this special plate is the regular motor vehicle license fee and a special license fee of sixteen dollars. These funds would be distributed to the Department to defray the DMV's expenses of producing and administering the plates, and remaining funds must be designated for use by the South Carolina National Guard for homeland security.

STATUS: H.4652 and H.4432 were both approved by the House and the Senate have been signed by the Governor.

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samples are to be stored and maintained. At the time of testing or at any time after that, on a form promulgated in regulation by the department, the parent or legal guardian of the child from whom a blood sample was obtained, or the child when eighteen years of age or older, may direct the department to: (a) return a blood sample in its entirety and any test results not less than two years after the date of testing; (b) destroy a blood sample in a scientifically acceptable manner not less than two years after the date of the testing; or (c) store a blood sample at minus 20° centigrade but not release the blood sample for confidential, anonymous scientific study. A blood sample released for confidential, anonymous study must not contain information that may be used to determine the identity of the donor. A blood sample released may contain demographic or other statistical information. If scientific study identifies genetic information that may benefit the child, the department may notify confidentially the parent or legal guardian, or the child if eighteen years of age or older, of this information. Blood samples taken prior to the effective date of the act that have not been stored under the conditions prescribed in the legislation must be properly destroyed. The legislation revises penalties for violations, specifying that fines may not exceed fifty thousand dollars and imprisonment not more than three years.

STATUS: S.204 passed the General Assembly and was signed into law by the Governor on May 1, 2002.

POLITICAL SUBDIVISION'S AUTHORITY TO ESTABLISH A MINIMUM WAGE (H.3289)

The General Assembly passed H.3289, a bill providing conditions for minimum wages that may be established by political subdivisions such as a municipalities, counties, school districts, special purpose districts, or public service districts. The bill provides that a political subdivision of this State may not establish, mandate, or otherwise require a minimum wage rate that exceeds the federal minimum wage rate set forth in the Fair Labor Standards Act. Also, a political subdivision of this State may not establish, mandate, or otherwise require a minimum wage rate related to employee wages that are exempt under the Fair Labor Standards Act. This provision does not limit the authority of political subdivisions to establish wage rates in contracts to which they are a party.

STATUS: H.3289 was enrolled for ratification on April 25.

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